



Committee and Date

Council

20 September 2018

10.00 am

**LOCAL GOVERNMENT ACT 1972, SECTION 101  
PROPOSED DEFINITIVE MAP MODIFICATION ORDER TO RECORD A RESTRICTED  
BYWAY IN THE TOWN OF BISHOP'S CASTLE AND COMMUNITY OF  
CHURCHSTOKE, POWYS - ACCEPTANCE OF THE DELEGATION FROM POWYS  
COUNTY COUNCIL TO MAKE THE ORDER ON THEIR BEHALF**

**Responsible Officer** Steve Brown, Highways, Transport and Environment Manager  
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## 1. Summary

An application to add a route to the definitive map affects a route which runs within both Shropshire and Powys. Powys County Council have agreed to delegate the power to investigate and make a legal order to Shropshire Council under the Local Government Act 1972, Section 101.

## 2. Recommendation

It is recommended that Shropshire Council accept the delegated authority as agreed by Powys County Council.

### **REPORT**

## 3. Risk Assessment and Opportunities Appraisal

### **Human Rights Act 1998**

The Rights of Way Officers have applied proportionality by weighing up the evidence both for and against the application and assert that the proposal to make an order is the most expedient method of complying with our statutory duty whilst at the same time complying with our duties under the Human Rights legislation by acting in the interests of the public generally without restricting individuals disproportionately or unnecessarily.

By suggesting publishing a modification order the Council is balancing its statutory duty under Section 53 Wildlife and Countryside Act 1981 to keep the Definitive Map and statement up to date whilst considering the Human Rights implications for doing so.

#### 4. Financial Implications

The Council has a statutory duty to keep the Definitive map under review and undertake the making of legal orders when required. The advertisement costs will be met jointly by Shropshire Council and Powys County Council.

#### 5. Background

The Outdoor Partnerships Team received a formal application under the provisions of the Wildlife and Countryside Act 1981 to add a bridleway on a route which runs from Shropshire into Powys. The investigating officer recommended that an order be made to record the route as a restricted byway on the definitive maps of Shropshire and Powys.

On Thursday 25 January 2018 Powys County Council held a meeting at Llandrindod Wells. The Council considered Item 13 which requested authority to delegate the investigation, and subsequent making of any legal order, to Shropshire Council. The proposal was passed 'in the interests of efficiency and need for the application to be determined as soon as is reasonable practicable'.

Under Article 11 of Shropshire Council's Constitution, *The Council or Cabinet, in order to promote the economic, social or environmental well-being of its area, may:*

- (a) enter into arrangements or agreements with any person or body;*
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and*
- (c) exercise on behalf of that person or body any functions of that person or body.*

The power to accept a delegation from another body is reserved to full Council under article 11.

This report is to accept the delegation from Powys County Council in the interests of expediency, so that the order, under the Wildlife and Countryside Act 1981, can be progressed. It is considered that progressing with the order will promote the economic, social and environmental well-being of the area. It will provide an increased network of rights of way for the use of local people, and also visitors on which the local economy depends.

#### 6. Conclusion

The most expedient way to progress a formal application which affects two adjacent authorities is for one i.e. Shropshire Council to undertake the full procedure. Powys County Council have agreed to give Shropshire Council delegation to undertake the matter on its behalf.

<b>Cabinet Member (Portfolio Holder)</b> Cllr Lezley Picton
<b>Local Member</b> Cllr Jonny Keeley
<b>Appendices</b> Appendix 1 - Delegated Report